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August 19, 2004 EX PARTE OR LATE FILED

REDACTED VERSION FOR PUBLIC INSPECTION

RECEIVED

Via Hand Delivery

AUG 19 2004

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Federal Communications Commission
Office of Secretary

Re: *Ex Parte* Presentation in CC Docket Nos. 01-338, 96-98, and 98-147

Dear Ms. Dortch:

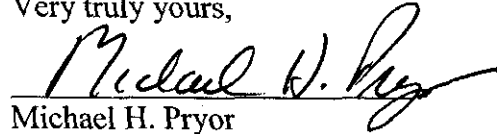
On Wednesday, August 18, 2004, James W. Akerhielm, Chief Executive Officer of NuVox Communications ("NuVox") and Jake E. Jennings, Vice President for Regulatory and Industry Affairs for NuVox met separately with the following: Chairman Michael K. Powell and Chris Libertelli, Senior Legal Advisor; Commissioner Michel J. Copps and Jessica Rosenworcel, Competition and Universal Service Legal Advisor; Commissioner Jonathan S. Adelstein and Barry Ohlson, Senior Legal Advisor; and Commissioner Kathleen Q. Abernathy and Matthew Brill, Senior Legal Advisor; and with Michelle Carey, Chief, and Tom Navin, Deputy Chief of the Competition Policy Division. The purpose of the meetings was to discuss the need to preserve access to DS1 loops and EELs pending the adoption of final rules. During the meeting, the attached redacted presentation was discussed.

NuVox, through its attorney, requested confidential treatment for part of slide 9 concerning NuVox's customers pursuant to Section 0.459 of the Federal Communications Commission's ("Commission's") rules and regulations. 47 C.F.R. § 0.459. The redacted information contained in slide 9 of the presentation falls within Exemption 4 of the Freedom of Information Act, 5 USC §552(b).

Pursuant to Section 1.1206(b)(1) of the Commission's rules, a cover letter and six copies of the confidential version of this presentation and a cover letter with six redacted

copies of the public version are being filed with the Office of the Secretary. Should you have questions or require additional information, please contact the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael H. Pryor", written over a horizontal line.

Michael H. Pryor

Counsel to NuVox Communications, Inc.

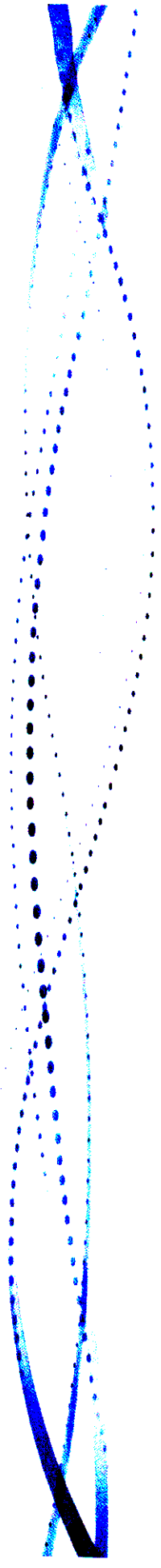
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Impact of FCC Interim Rules on Small Business

August 2004

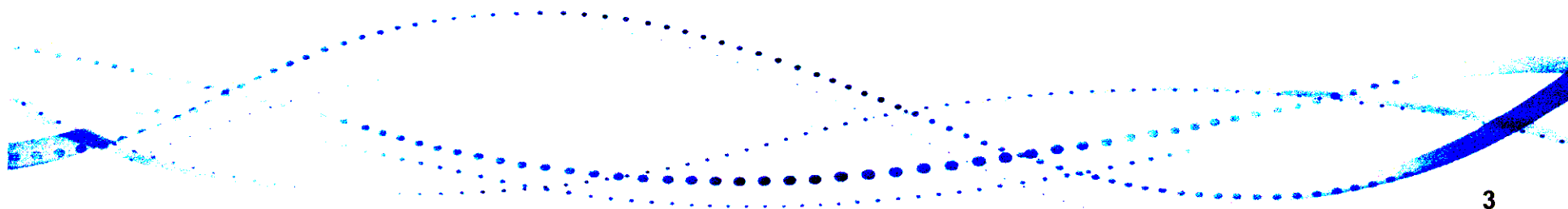


- **NuVox brings competitive choice to small business**
 - Over 18,000 small business customers with 12 lines or less.
 - Small Business Customers spend approximately \$500 - \$700/month
 - Examples of small business:
 - > Health Care
 - > Professional Service
 - Legal
 - Insurance Agents
 - Banking
 - > Hospitality Industry

Benefits of Competitive Choice



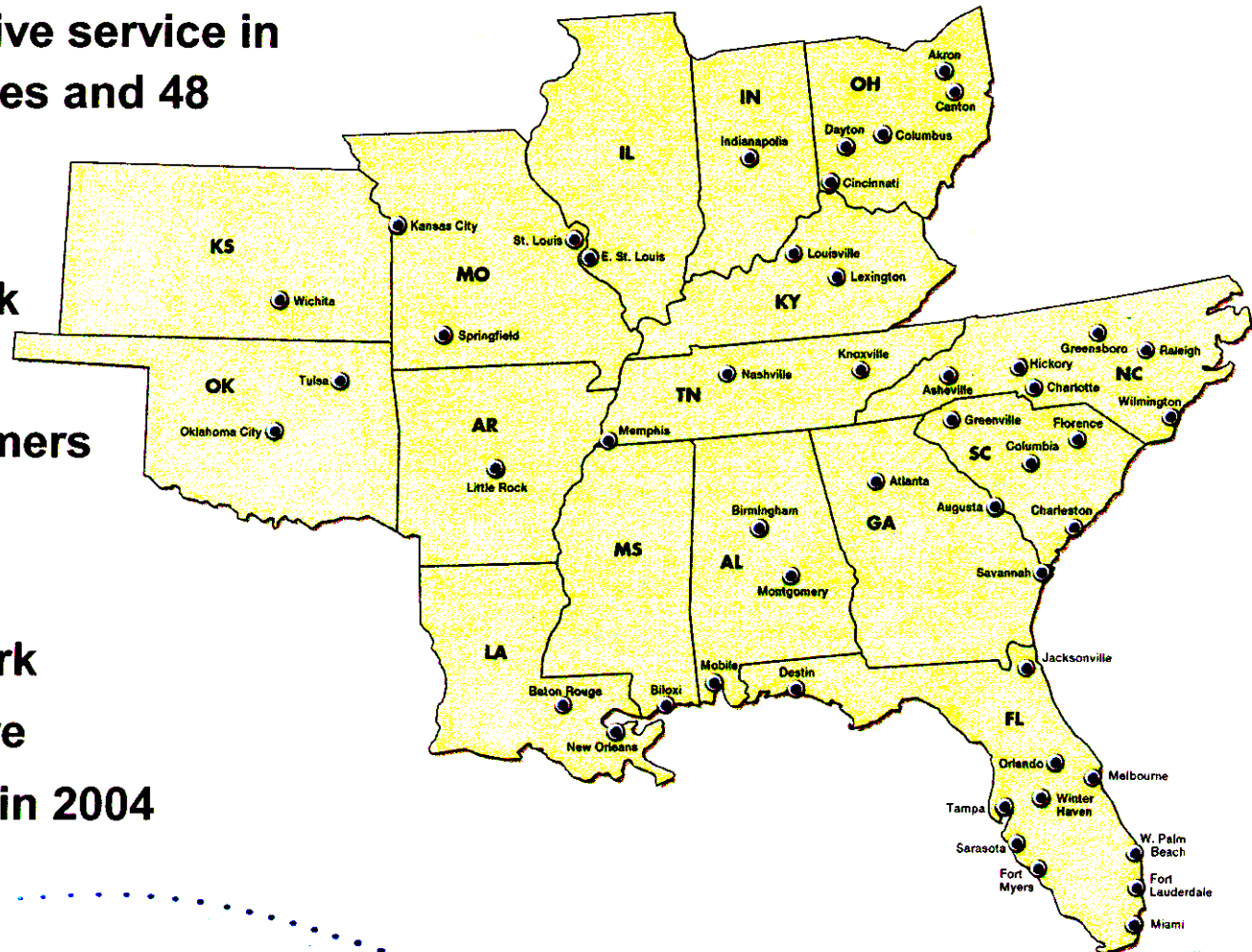
- **NuVox's small business customers are, for the first time, receiving the benefits of broadband.**
 - Over 90% of NuVox's customers are upgraded to broadband when they switch their service from the Bell company
- **Innovative Services**
 - Integrated T1 Service (Voice/Data)
 - Dynamic Bandwidth
 - Enterprise Voice over Internet Protocol
 - > Click to Talk
 - > Single Telephone Number
 - > Unified Messaging



NuVox – Company Overview



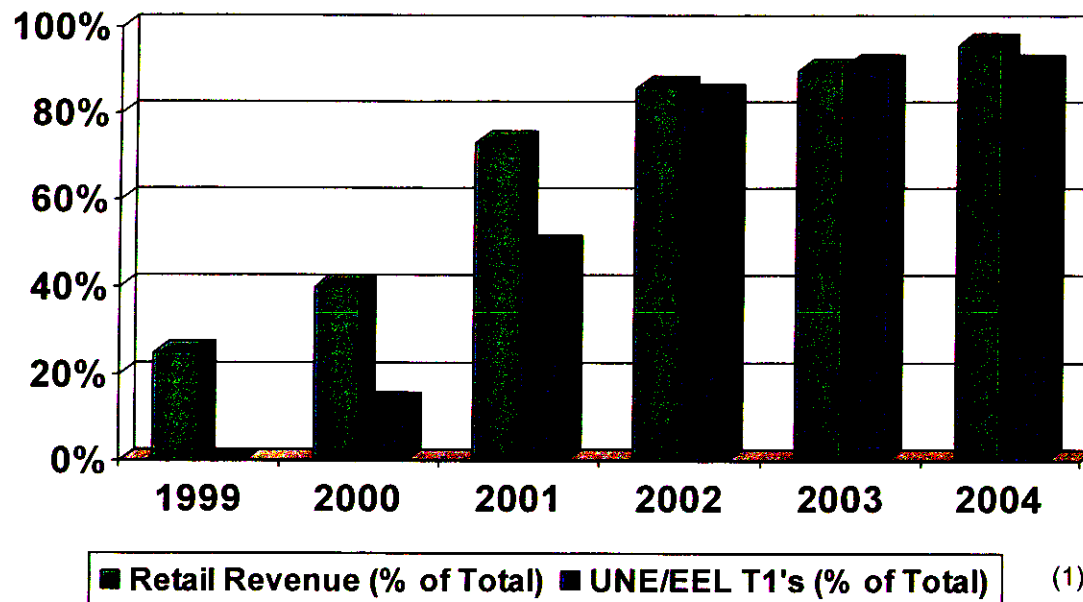
- Provides competitive service in 16 contiguous states and 48 markets
- Over \$500 million invested in network capital
- Over 37,000 customers
- 281 Collocations
- 28 Voice Switches
- Sonus VoIP Network
- SONET Architecture
- \$20 – 25M EBITDA in 2004



Need for High Capacity Loops/EELs



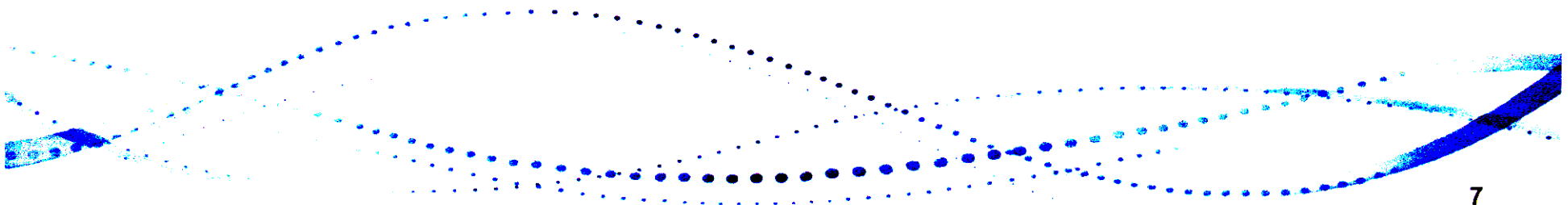
- NuVox is able to provide competitive service to small business customers only because DS1 loop/EEL UNEs are available
- Trend - Retail Revenue and UNE/EEL DS1 Mix



- Network deployment complete 4Q 2001
- EBITDA positive 2Q 2002

- **No alternatives in the marketplace other than the ILEC to serve small business customers**
 - Cable is unavailable
 - Wireless is not a substitute
- **Impairment for DS1 UNE Loops and EELs**
 - Self deployment is not economical for small business customers
 - Wholesale alternatives do not exist
 - > Insufficient geographic coverage
 - > Not operationally available
- **Special Access is not a substitute**
 - Materially increases cost
 - Puts CLEC at mercy of ILEC pricing decisions
 - Lock-In affect undermines facilities-based competition

- **Availability of DS1 EELs allows competitors to expand reach without the need for collocation**
 - Expands NuVox's service territory from 281 collocations to 1,536 ILEC wire centers
 - 45% of customers served via EELs
- **EEL – Distance sensitive loop from an operational and financial perspective**
 - Same “impairment” exists for transport component of DS1 EEL as for DS1 Loop
 - Greatest cost increase is in transport component



Special Access – EEL Comparison

Indianapolis, IN MSA UNE Density Zone 3, FCC Density Zone 2 MSA Price Flex (Limited Relief)

Element	UNE Rate	SPA 5yr. Rate	Variance
Channel Termination (DS1 Loop)	\$ 38.48	\$ 110.00	\$ 71.52
Mileage @ 10 miles	\$ 16.50	\$ 137.50	\$ 121.00
InterOffice Channel Fixed	\$ 11.10	\$ 26.30	\$ 15.20
COLO Cross Connect	\$ 0.36	\$ 6.89	\$ 6.53
Total:	\$ 66.44	\$ 280.69	\$ 214.25

Knoxville, TN UNE Density Zone 1, FCC Density Zone 2 (Full Relief)

Element	UNE Rate	SPA 5yr. Rate	Variance
Channel Term (DS1 Loop)	\$ 57.73	\$ 123.00	\$ 65.27
Mileage @ 10 miles	\$ 3.56	\$ 120.00	\$ 116.44
InterOffice Channel Fixed	\$ 77.86	\$ 70.00	\$ (7.86)
COLO Cross Connects	\$ 1.51	\$ 2.65	\$ 1.14
Total:	\$ 140.66	\$ 315.65	\$ 174.99

Savannah, GA UNE Density Zone 1, FCC Density Zone 2 (Full Relief)

Element	UNE Rate	SPA 5yr. Rate	Variance
Channel Term (DS1 Loop)	\$ 64.13	\$ 123.00	\$ 58.87
Mileage @ 10 miles	\$ 4.50	\$ 120.00	\$ 115.50
InterOffice Channel Fixed	\$ 78.47	\$ 70.00	\$ (8.47)
COLO Cross Connects	\$ 2.33	\$ 2.65	\$ 0.32
Total:	\$ 149.43	\$ 315.65	\$ 166.22

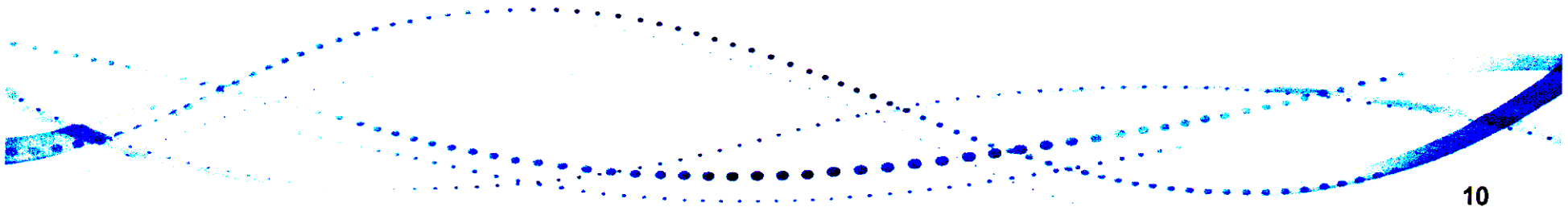
- Eliminating DS1 Loop/EEL availability will significantly harm NuVox's ability to compete in the marketplace.

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Impact if FCC Fails to Require Access to DS1 UNE Loops and EELs



- **The inability of competitive carriers to access the ILECs' last mile facilities as UNEs will impose substantial cost increases on small business customers.**
 - It is estimated that small business costs will increase by at least 25%.
 - The overall increase in costs for small businesses is estimated to be \$4.9 Billion annually
 - > Use of Special Access increases costs substantially – from 100 to 300 percent.
 - > Companies like NuVox would be forced to exit the market.
- **Substantial harm will result from the inability to add new customers using DS1 Loops/EELs even for a short period.**
 - Increase customer churn
 - Customer growth eliminated
 - Financial institution reaction



- **Immediate action by FCC**
 - **Prevent any increase in rates for UNE DS1 Loops and EELs if the FCC fails to complete the TRO Remand within six months.**
 - **Provisional finding that competitors are “impaired” without access to UNE DS1 Loops and EELs.**